

EXHIBIT C

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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INTEGRATED COMMUNICATIONS &
TECHNOLOGIES, INC., et al.,

Plaintiffs,

v.

HEWLETT-PACKARD FINANCIAL SERVICES
COMPANY, et al.,

Defendants.

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Civil Action No.
1:16-cv-10386-LTS

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BEFORE THE HONORABLE LEO T. SOROKIN, DISTRICT JUDGE

VIDEO STATUS CONFERENCE

Thursday, November 12, 2020
3:59 p.m.

John J. Moakley United States Courthouse
One Courthouse Way
Boston, Massachusetts

Rachel M. Lopez, CRR
Official Court Reporter
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P R O C E E D I N G S

(In open court.)

THE DEPUTY CLERK: The United States District Court for the District of Massachusetts is now in session, the Honorable Leo T. Sorokin presiding.

Today is November 12th, the case of Integrated Communication Technology, vs. Hewlett-Packard Financial Services Company, Civil Action 16-10386 will now appear before this court.

Counsel, please identify themselves for the record.

MR. JOFFE: Dimitry Joffe of Joffe Law PC, for plaintiffs.

MR. BUNIS: Michael Bunis, Choate, Hall, and Stewart on behalf of the defendants.

MR. MCGUIRE: Josh McGuire on behalf of plaintiffs.

MR. BUNIS: I'm sorry, Josh.

MR. EDGARTON: Good afternoon, Your Honor, Mark Edgerton, Choate, Hall, and Stewart on behalf of the defendants.

MR. QUIGLEY: Good afternoon, Your Honor. Kevin Quigley, Choate, on behalf of the defendants, as well.

MR. CALLAGHAN: Good afternoon, Your Honor, Anthony Callaghan from Gibbons PC, also on behalf of defendant.

MR. SASO: And good afternoon, Your Honor, Paul Saso from Gibbons PC, on behalf of defendants.

1 THE COURT: Good afternoon. So first of all, thank
2 you to all of you for making yourselves available so quickly
3 in response to the short notice that I gave you of this
4 hearing.

5 I have watched the video of the deposition that
6 Mr. Bunis provided and copied to all of you. This is why I
7 scheduled the hearing. I have one practical question first.

8 How many -- putting aside -- not including experts,
9 just the nonexpert depositions, how many depositions are left
10 for plaintiffs to take and how many are left for defendants?

11 MR. JOFFE: The plaintiffs are currently taking the
12 deposition of Stewart Patterson, which is going on today. We
13 will have two -- well, a day and a half of 30(b)(6)
14 depositions. I believe, Your Honor, that's all that's
15 scheduled left for plaintiffs to take.

16 THE COURT: So a day and a half of the 30(b)(6).
17 Mr. Patterson -- this interrupts Mr. Patterson's deposition.

18 MR. JOFFE: Right. And I think that's -- let me
19 just make sure at my schedule here, but I believe that's it,
20 Your Honor. I have the schedule.

21 THE COURT: And then what about -- and then there's
22 Mr. O'Grady.

23 MR. JOFFE: Well, Mr. O'Grady, we don't have a --
24 we have one hour of Mr. O'Grady.

25 THE COURT: I mean, do you want Mr. O'Grady's

1 deposition or not?

2 MR. JOFFE: We do, of course.

3 THE COURT: Yeah.

4 MR. JOFFE: And Your Honor, and one other, we have
5 a Barclay deposition, Kevin Barclay, the day before
6 Mr. O'Grady. And then that deposition, I believe Mr. Bunis
7 instructed Mr. Barclay not to answer my questions on very
8 many occasions that did not call for those instructions and
9 we would like to move to upend those instructions and maybe
10 have him for another half a day deposition.

11 THE COURT: You can -- I don't know anything about
12 that, either way.

13 MR. JOFFE: Right.

14 THE COURT: But you can certainly file a motion
15 saying that you want Mr. Barclay to come back because, and
16 give me the transcript and explain to me what happened. And
17 then I'll look at it and I'll give the defendants a chance to
18 oppose that, and then I'll see.

19 And obviously, it goes without saying that if I
20 think a witness didn't testify to things, in response to
21 proper questions, that they should have testified about, then
22 I'll probably order that they give -- they answer those
23 questions. I'm not saying that the questions were proper and
24 I'm not saying that the instructions were improper, I'm
25 simply saying that's a -- but you have to bring it to me and

1 file a motion.

2 MR. JOFFE: Of course.

3 With that in mind, then, we have 30(b)(6) for one
4 and a half days, we have about five hours left with
5 Mr. Patterson and, tentatively, we have a few extra hours
6 with Mr. Barclay, then, and that's it.

7 THE COURT: All right. So a day and a half
8 30(b)(6), five hours Mr. Patterson. Mr. O'Grady, depending
9 on what happens with that. And then you -- at the moment,
10 the only other motion you'd have for more depositions --

11 MR. JOFFE: Barclay.

12 THE COURT: -- would be with respect to -- -- was
13 it Barclay?

14 MR. JOFFE: Yes, the witness is Kevin Barclay.

15 THE COURT: And that would be, sounds like from
16 what you're saying, if you won that, 30 minute to half a day?

17 MR. JOFFE: Yes.

18 THE COURT: Okay. And then how many do the
19 defendants have left to take?

20 MR. SASO: Your Honor, there are five witnesses
21 that have not yet completed their depositions. They would
22 include Jade Cheng, who we've only been able to get through
23 about two hours with, so we expect two more days with
24 Mr. Cheng, Caroline Cheng, Jason Yuyi, and Cathy Yu. And
25 then, of course, we have the issue, as well, with Alexander

1 Pekar, and his subpoena. He has not -- that issue has to be
2 resolved, as well, before taking his deposition.

3 THE COURT: So if you had everybody, six deponents,
4 and --

5 MR. SASO: No, five deponents.

6 THE COURT: And one of those are two-day
7 depositions, some are one day.

8 MR. SASO: Five witnesses, but, yes, some of them
9 will be more than one day.

10 THE COURT: Okay. Okay. All right. So let me --
11 And do you have any update on the timing of a
12 transcript of the O'Grady deposition?

13 MR. BUNIS: I think we have it, Your Honor.

14 MR. JOFFE: You mean O'Grady, the one that you have
15 the video?

16 THE COURT: Yes.

17 MR. JOFFE: I think we have rough. Do we have
18 rough, Michael?

19 MR. BUNIS: I believe so. I believe so.

20 MR. JOFFE: We have rough, yes.

21 THE COURT: So let me -- well, Mr. Bunis, you
22 raised that you're unhappy with what transpired at the
23 deposition. Were there specific things that you wanted -- I
24 mean, I've watched it and I -- I don't have -- I have my own
25 thoughts, but I don't have a specific -- I didn't know if

1 there were specific things you wanted in response to --

2 MR. BUNIS: Your Honor, I think I alluded to the
3 fact that at the time -- I think I'm getting my days
4 confused, Judge. When we were before you and that was the
5 same day of the O'Grady deposition, I think I had mentioned
6 to you that we hadn't had an opportunity to caucus amongst
7 the defendants, clients, et cetera, to figure out what kind
8 of relief we would be seeking as a result.

9 THE COURT: Yes, I understand.

10 MR. BUNIS: And we've still -- we've talked
11 generally about it, but I don't think we've reached a
12 conclusion.

13 I will say that my concerns that are articulated to
14 you, in part, when we were together last are that the
15 behavior of opposing counsel during the course of the
16 deposition was improper, and I did not want to subject the
17 witness to it. I think it was inappropriate and I don't want
18 to subject further witnesses to it.

19 THE COURT: Okay. So then let me just tell you all
20 some tentative thoughts.

21 I watched the entirety of the video. I think that,
22 Mr. Joffe, that there was conduct -- my tentative view -- and
23 I say tentative, because you haven't had the chance to
24 address this in any great way. Mr. Bunis brought it up the
25 day it happened. I didn't -- other than him telling me that

1 he thought there was various improper conduct, I didn't get
2 into it with him. And you -- other than you telling me
3 you've had a very different of it, which is fair, I didn't
4 get into it with you. I wanted to watch the video.

5 This is a case in which I'm very familiar with the
6 case, much more familiar than most cases, because there's
7 been -- it's been around for a long time, because it's been
8 heavily litigated from the moment it was filed. So I'm quite
9 familiar with the allegations and I'm quite familiar with all
10 of you, because I've interacted with all of you at numerous
11 hearings over the course of this case and I've read and
12 resolved numerous motions.

13 So, but nonetheless -- so that is why I am inclined
14 to give you a tentative view of what I think is a response to
15 this, but it is only a tentative view and I am going to give
16 you both the chance to respond in writing to what I'm laying
17 out.

18 The short version is, I don't think your behavior,
19 Mr. Joffe, was proper in the deposition. There were various
20 things that you said in the deposition that I think were not
21 proper and appropriate. The thought -- as my tentative
22 thought for a response to this is that the depositions should
23 be supervised going forward and that they should be
24 supervised at your expense. And the reason I think it --
25 when I say "your expense," it's you or your plaintiffs, but

1 the reason I think it's your expense is because prior to
2 Tuesday, it hadn't occurred to me that the depositions would
3 need to be supervised by a third person, but after watching
4 the deposition, I think that they do.

5 And I think that the reason that they need to be
6 supervised is not because Mr. Bunis terminated the
7 deposition, but because of what led to Mr. Bunis's decision
8 to terminate the deposition. And so that's my tentative
9 view, that they should be supervised and that they should be
10 supervised at the expense of either you, Mr. Joffe, or
11 plaintiffs. The reason my tentative view is for that, is
12 that the reason for supervision is because of that conduct at
13 the deposition and coming out of not -- that deposition, in
14 my view, doesn't stand alone in this case, and it comes out
15 of a history of what I've observed in court and in the course
16 of the case.

17 But that said, I think that you and your clients
18 are entitled to weigh in on that and that's why I say it's
19 only a tentative view. And so my thought is to give you the
20 chance to weigh in on that. You can tell me why I -- I don't
21 know if you want that or don't want that or any part of that.
22 You tell me what -- tell me in writing -- I'm not expecting
23 you to, like, conclusively respond right now. I'll give you
24 an opportunity to tell me why I shouldn't do that, or I
25 should do something else instead of, or something -- whatever

1 it is that you think -- you wish me to respond to that.
2 Whatever way you wish to respond to that.

3 And then the defendants, you can respond, as well,
4 if you wish, after Mr. Joffe responds.

5 MR. JOFFE: Your Honor, I'm prepared to respond
6 right now, if you'll let me, please.

7 THE COURT: And you don't wish to have an
8 opportunity to respond --

9 MR. JOFFE: I would like to have an opportunity to
10 talk to the clients with respect to payments for this.

11 THE COURT: Okay.

12 MR. JOFFE: But the matter of supervised
13 depositions, I wholeheartedly welcome your suggestion.

14 THE COURT: Okay.

15 MR. JOFFE: I wanted to ask you for a supervised
16 deposition, but since you offered it, I will talk to them
17 about payment, but I think I'll convince them that that's the
18 right thing to do.

19 THE COURT: Okay.

20 MR. JOFFE: And that was my intention, frankly, to
21 ask you for supervised depositions and I -- I told opposing
22 counsel, on one of those depositions, that I would like to
23 ask the Court for supervised --

24 THE COURT: All right. So let me tell you, then --

25 MR. JOFFE: I will quickly consult with my clients

1 as to expense, but other than that -- and I think we will be
2 able to --

3 THE COURT: So let me tell you, then, what I was
4 thinking about. I was thinking that -- I was thinking that,
5 if they are supervised and if you agree, then that certainly
6 simplifies the matter. The person that I had in mind was
7 Retired Chief Magistrate Judge Charles Swartwood.

8 MR. JOFFE: Charles -- I'm sorry, Your Honor. I
9 didn't get the name.

10 THE COURT: Charles, last name is Swartwood,
11 S-w-a-r-t-w-o-o-d. Swartwood. Judge Swartwood was the --
12 was a magistrate judge on this court, in the Worcester
13 division, for many years. I don't remember how many years.
14 He's now -- he left -- when he retired, he went to JAMS, so
15 he's at JAMS.

16 MR. JOFFE: Okay, Your Honor, if I may, do you
17 know, what is his rate? What does he charge?

18 THE COURT: I don't. I have no idea.

19 MR. JOFFE: Okay. So we should contact with him
20 directly to figure out the rate?

21 THE COURT: You could call JAMS to find out what
22 his ordinary and customary rate is.

23 MR. JOFFE: Okay. I only have this question about
24 the rates and the charges, but you know, I don't know
25 Mr. Swartwood, but I think a retired magistrate judge will do

1 just fine, Your Honor.

2 THE COURT: Okay. So my thought in watching it,
3 whether -- so whether there should be additional, different,
4 other, or not that consequence, I hear Mr. Joffe saying
5 supervision is fine. Payment is a question. He'd like to
6 find out how much it costs. My tentative view was plaintiff
7 should pay, or Mr. Joffe.

8 So I don't know you, Mr. Bunis, are thinking about
9 what you wish and so you can do that. And you can ponder
10 this and think about whether you want this or don't want
11 this, or you want something different.

12 MR. BUNIS: Your Honor -- I don't want to
13 interrupt, I'm sorry.

14 THE COURT: No, there's nothing else.

15 MR. BUNIS: I -- again, we do need to talk to the
16 client about it and figure it out, but I do want to raise an
17 issue, something that Your Honor raised, and actually when I
18 first brought the matter up when we were together last. And
19 that is Your Honor's ruling with respect to a prior issue of
20 attorney conduct during a deposition and the decision to
21 revoke pro hac status. And as Your Honor said today, that
22 you are giving a tentative ruling, not based on only the
23 video, but based upon your familiarity with the entire case.
24 And I would just like to say, Judge, that I did not end the
25 deposition lightly. The decision to do that was because I

1 felt that there was --

2 THE COURT: I didn't think that anything,
3 Mr. Bunis, in the deposition that you did, that was anything
4 other than professional conduct, or a reasonable judgment.

5 MR. BUNIS: I appreciate that, but what I'm saying
6 is I thought there was extreme behavior on the other side.
7 And when you consider other behavior by -- my reference to
8 Mr. Joffe by name is not meant to call names. I'm simply
9 referring to conduct, so please understand that I'm --

10 THE COURT: I do.

11 MR. BUNIS: I'm not meaning to -- but, for example,
12 there's been repeated sort of ignoring of local rules, like
13 failure to meet and confer, just blowing off, frankly, Judge,
14 dates and deadlines that are important in this district. And
15 I'll say another thing, Judge, which is there has been just
16 complete disengagement on the part of local counsel here.
17 Mr. McGuire, again, I am not naming names, I'm just pointing
18 out simple facts. For example, Mr. McGuire, notwithstanding
19 that we have a busy deposition schedule, has not defended a
20 single deposition at all. And yet another lawyer has been
21 brought in, who I don't think has entered an appearance in
22 this case and has defended depositions in this case, which
23 I'm not sure is proper. Certainly we'd agree to it, because
24 we want to get things moving and be efficient, et cetera.

25 But the simple fact is this is not the way pro hac

1 relationships are supposed to work in this district. And so
2 while I appreciate that the remedy that your tentative ruling
3 is offering deals with the immediate question of deposition
4 and conduct. This is a broader thing going on, Judge, and I
5 think we are certainly considering a motion to revoke the pro
6 hac status. I can't tell you now, because I haven't spoken
7 to the client, but I think --

8 THE COURT: So let me say this. You are free to
9 ask for whatever you want and I will entertain it.

10 You should understand, Mr. Joffe, that I have never
11 ordered a supervised -- well, that's not true. Once -- no,
12 I've never ordered a regular deposition to be supervised by
13 anybody, in all of the time that I've been a judge, and this
14 stands out in that circumstance.

15 The -- whether a larger or more -- there are --
16 look, I'll just say a couple things about that, Mr. Bunis.
17 One, you can -- I'm not saying -- I'm not foreclosing that
18 possibility, in addition to this. I guess my perspective is
19 this:

20 One, when are the other depositions? Are there
21 depositions scheduled tomorrow?

22 MR. JOFFE: Well, Your Honor, one is scheduled for
23 right after this.

24 THE COURT: You're in the middle of Patterson?

25 MR. JOFFE: Yes.

1 THE COURT: I guess my thought is that I would look
2 to defendants on this. If you think that you can complete --
3 Mr. Patterson is your witness?

4 MR. BUNIS: He's a defense witness.

5 THE COURT: He's a defense witness, yeah.

6 MR. BUNIS: Correct.

7 THE COURT: If you think you can complete the
8 deposition of that, without supervision, then fine.

9 MR. JOFFE: Your Honor, but we would like to have
10 that deposition supervised. I want to have supervision of
11 that deposition.

12 THE COURT: If you want Judge Swartwood to watch
13 it, you can call JAMS and you can hire Judge Swartwood today
14 to be there as an observer. He wouldn't be my designee, but
15 he would be an observer. You can do that, if you wish, but
16 there's a videographer.

17 MR. JOFFE: Well, I want to have it as you ordered,
18 to have supervision, a court-appointed supervision, so on
19 that authority --

20 THE COURT: Well, you're not prepared to pay for
21 it. You're not agreeing right now to my order that you would
22 have to pay for it.

23 MR. JOFFE: Right. But if we have it, I would like
24 to have Patterson, the remainder five hours to be supervised,
25 as well. Your Honor, if you ordered it, I think it's fair

1 for us to ask that Patterson be --

2 THE COURT: I haven't -- just so we're clear, I
3 haven't ordered it yet.

4 MR. JOFFE: Okay.

5 THE COURT: But my thought would be, if I order it,
6 it's going to apply to all the depositions going forward.

7 MR. JOFFE: Okay.

8 THE COURT: The -- with respect to the revoking pro
9 hac vice, you should know a couple things. One, I've been
10 very unhappy with you for a long time, Mr. Joffe, because of
11 repeated misconduct that I've enumerated in numerous orders.
12 And I have -- the focus, my focus, has been and remains on
13 the admonition in Rule 1 that -- to resolve cases on the
14 merits. And but you should understand that clients pick
15 lawyers, and clients own their lawyers. And I'm -- I prefer
16 not to punish clients directly or indirectly for the
17 misconduct of their lawyers, but there is some inevitable
18 consequence of that.

19 So you should think about that.

20 With respect to revoking the pro hac vice, you can
21 ask for that. I brought it up, because misconduct at a
22 deposition, especially in the context of this case, is the
23 kind of thing that, at least it came to my mind, and I
24 thought I should raise it with you.

25 I will say that in the case that I revoked the pro

1 hac vice of a lawyer, he -- if my recollection is accurate,
2 both stood in front of me and lied to me, expressly, about a
3 very specific fact or transaction, event in the deposition,
4 and destroyed a piece of evidence with respect to that, which
5 had to do with a note that he passed to a witness.

6 MR. JOFFE: Your Honor, Mr. Bunis just lied to you
7 five minutes ago. He said that Josh McGuire did not defend a
8 single deposition and Mr. McGuire defended the first witness.
9 The first witness was defended by Mr. McGuire.

10 THE COURT: So Mr. Joffe, several things. One, I
11 reminded you last time. There's a way in which court works.
12 And the way in which court works is that I'm the judge, in
13 case you forgot. And what that means is when I'm speaking,
14 you don't interrupt me. When I'm finished, you will have an
15 opportunity to make whatever points you make. In the course
16 of this four and a half years, I've never prevented you at a
17 hearing from making whatever statements or objections you
18 wish to make and I'm not about to start now. So -- but I
19 specifically reminded you on Tuesday that don't interrupt.
20 It is not --

21 MR. JOFFE: I'm sorry.

22 THE COURT: It is not only improper conduct of a
23 lawyer, it is also rude. Yes, do you understand that?

24 MR. JOFFE: Yes. Yes, Your Honor.

25 THE COURT: Okay. So don't do it. All right?

1 MR. JOFFE: I'm sorry, Your Honor.

2 THE COURT: Second, there is -- you need to
3 understand, when you make a statement like that, that
4 Mr. Bunis lied, you need to understand what it means to be a
5 lawyer. Okay? That is the kind statement that I ordinarily
6 hear from a pro se litigant. You should understand that
7 it's -- there are three -- from my -- from what I've heard in
8 the course of this little Zoom about whether Mr. McGuire
9 defended a deposition or not, I heard a statement by
10 Mr. Bunis, I believe what he said was that Mr. McGuire hadn't
11 defended a deposition. One question, then, would be whether
12 that is factually correct. It may be possible -- I don't
13 know the answer -- that Mr. McGuire has defended a
14 deposition. If that's so, that would suggest to me that
15 Mr. Bunis made a mistake. That is, he said something that
16 was not accurate, but you didn't say that what Mr. Bunis said
17 was inaccurate. You said what Mr. Bunis did was he, quote,
18 lied.

19 MR. JOFFE: Correct.

20 THE COURT: That is a very, very serious accusation
21 to make about any person and most especially another lawyer.

22 So what basis, right now, you tell me, do you have,
23 in your possession to tell you that Mr. Bunis lied as opposed
24 to made a mistake?

25 MR. JOFFE: That deposition happened about two

1 weeks ago, and Choate Hall, the lawyer of Mr. Bunis were
2 present on that deposition. I don't recall if Mr. Bunis
3 himself was present, but definitely lawyers from --

4 THE COURT: So in the last two weeks -- you've
5 taken some depositions, you told me, at 3:00 a.m., yes?

6 MR. JOFFE: Well, yes.

7 THE COURT: Yes or no?

8 MR. JOFFE: Yes, Your Honor.

9 THE COURT: And some at 5:00 a.m., yes?

10 MR. JOFFE: Yes, Your Honor.

11 THE COURT: And it's been a busy time of taking
12 depositions, yes?

13 MR. JOFFE: Yes, Your Honor.

14 THE COURT: And you don't know, as you sit here
15 now, whether Mr. Bunis was actually personally present at the
16 deposition that Mr. McGuire defended?

17 MR. JOFFE: I don't recall. That's easy to find
18 out.

19 THE COURT: No, no. I'm asking you what you knew
20 when you said he lied.

21 MR. JOFFE: Okay.

22 THE COURT: Did you know then -- did you have
23 personal knowledge then that Mr. Bunis was present?

24 MR. JOFFE: No, Your Honor. I have a firm,
25 personal memory that lawyers from Choate Hall were present.

1 THE COURT: Yes, but you didn't know if Mr. Bunis
2 was present?

3 MR. JOFFE: Yes, but he's the head of the team, so
4 he would know who deposed Mr. De Silva --

5 THE COURT: And you have no idea, whether, in the
6 course of all the things that happened, other than the fact
7 that Choate Hall defended it and he's head of the team at
8 Choate Hall, and that, therefore, there was a reasonable
9 inference that he would have been told --

10 MR. JOFFE: And they received videos.

11 THE COURT: You have no idea if whether what he did
12 was made a mistake, or whether he lied?

13 MR. JOFFE: Well, Your Honor, I think he lied.
14 That's what I said.

15 THE COURT: I understand you think he lied. I'm
16 not asking you what you thought. I'm asking you what is the
17 factual basis for your belief that he lied?

18 MR. JOFFE: I have a number of facts that I just
19 stated to you that Choate Hall was a participant in that
20 deposition, that they participated in the Zoom deposition,
21 that they took transcripts and videos and rough transcripts
22 of that deposition. That was the first plaintiffs' witness,
23 deposed during the day, Marina da Silva, that was defended by
24 Josh McGuire. It happened -- I will tell you exactly when --

25 THE COURT: I don't need to know when it happened,

1 Mr. Joffe, because that's not answering my question. That is
2 telling me -- Mr. Joffe, that is telling me that there is
3 reason to believe that Mr. Bunis would know he was present.
4 That isn't telling me that he would -- that he lied. There's
5 a difference. It doesn't mean when he's sitting here right
6 now he remembered every person who was present. So what
7 you're telling me is other than the fact that Choate Hall
8 certainly knows who was there and he's head of the team, and
9 at one point in time, he probably learned and you're
10 representing to me that Mr. McGuire did defend that
11 deposition, yes?

12 MR. JOFFE: Yes.

13 THE COURT: Then you have no other basis to know
14 whether he lied, or he made a mistake when he said that.

15 MR. JOFFE: Your Honor, the inferences from the
16 facts that I know tells me that he deliberately made a false
17 statement, or that he made that statement with reckless
18 disregard for the truth, or he made that false statement with
19 gross negligence for the truth.

20 THE COURT: Would you like me to apply that
21 standard to you, Mr. Joffe.

22 MR. JOFFE: It's not necessarily his direct
23 knowledge. He --

24 THE COURT: Would you like me to apply that
25 standard to you, Mr. Joffe?

1 MR. JOFFE: Yes, Your Honor, if I lied to you or
2 made false statements, yes. I --

3 THE COURT: No, no. Would you like me to apply the
4 standard that if you -- if I had reason to believe you know
5 things and say something different, that I should come to the
6 conclusion you lied to me?

7 MR. JOFFE: Yes, Your Honor.

8 THE COURT: You want me to apply that standard to
9 you?

10 MR. JOFFE: If I was grossly negligent and I made
11 false statements to you and if I was disregarding the truth
12 deliberately or recklessly and making false statements to
13 you, you should accuse me in lying, yes.

14 THE COURT: And if I find that you were reckless
15 and the recklessness is established by the fact that you had
16 knowledge of the underlying facts and you made a statement
17 different than what the underlying facts were.

18 MR. JOFFE: Yes, Your Honor. If I made a false
19 statement to you as Mr. Bunis just did and if I did it with
20 disregard for the truth, or negligent -- grossly negligent
21 disregard for the truth, you should accuse me of lying. Yes.
22 Okay. I agree with that.

23 THE COURT: I appreciate that. Thank you.

24 MR. JOFFE: If there is a false statement that I
25 made to the Court, let's start with that. There isn't and

1 Michael Bunis just did and the question for you, Your Honor,
2 is --

3 THE COURT: Mr. Joffe, I don't have time to go
4 through all of your statements to the Court right now. I'm
5 not going to do that. I think I have memorialized my views
6 on the statement -- not all, but on many of the things you
7 have said to the Court previously. Okay. And I'm not -- I
8 appreciate your invitation to go over them, but I'm not going
9 to, but if you'd like to start -- I'm not going to do it, but
10 I would suggest you start with the docket and you start in
11 January of -- I believe it was 2017, when you filed a motion
12 for leave to amend the complaint and my order and then your
13 response to that order, with the complaint you did file.
14 Statements in the order on the motion for leave to file when
15 I allowed the amended complaint, in part, and what I said to
16 you then. That would be the beginning in this case, if we
17 were reviewing statements by you, but we're not at the
18 moment.

19 So turning back, Mr. Bunis, to what you said --

20 MR. BUNIS: Judge, before you -- I apologize. I
21 first want to apologize to Mr. McGuire. I absolutely did not
22 know that he defended the deposition and I just would point
23 out one other thing. I don't believe that anyone from Choate
24 Hall and Stewart was present at all during that deposition,
25 at all. So forgive --

1 I apologize, Mr. McGuire. What I meant to say was,
2 we've had a lot of deposition and I wasn't aware that he had
3 defended anyway, but certainly no one from Choate Hall was
4 present.

5 Sorry to interrupt, Judge.

6 THE COURT: That's all right, thank you. So what
7 you're saying, Mr. Bunis, is that based on what information
8 you've received while this conversation is occurring, there
9 was a deposition, Mr. McGuire did defend the depositions, is
10 your understanding, although you weren't there personally,
11 but there was no lawyer from Choate Hall there at that
12 deposition.

13 MR. BUNIS: That's what I understand, Your Honor,
14 correct.

15 THE COURT: That's what you believe.

16 MR. BUNIS: Absolutely.

17 THE COURT: So for Mr. Joffe, I would just point
18 out -- okay. I will just point out, Mr. Joffe, that I'm not
19 about to have a hearing to determine whether or not, in fact,
20 there was a Choate Hall lawyer present at that deposition,
21 but if I determine that, in fact, there was no Choate Hall
22 lawyer at that deposition, if I did what you told me to do,
23 which was to apply your standard to statements, I would find
24 that you just lied to me.

25 MR. JOFFE: No need, Your Honor.

1 THE COURT: And when you said that Choate Hall was
2 at the deposition, because you told me Choate Hall was at the
3 deposition. I'm not going to find that, because that
4 standard is not the standard that applies, because my
5 understanding is that people make mistakes and what I assume
6 that was, when you told me that Choate Hall was there if, in
7 fact, they weren't there, which I don't really care at the
8 moment, I would think you made a mistake, not that you lied
9 to me. Which is what I thought with respect to Mr. Bunis and
10 I pointed it out to you, because when you make incendiary
11 charges like "lying," they are very serious, and lawyers --
12 and you are a lawyer -- need to take -- need to think about
13 their words before they utter them and that is a charge that
14 you need to take seriously.

15 So turning back to what we were talking about,
16 Mr. Bunis, which is you may -- there is, in some ways,
17 certain differences and even if, on Mr. Joffe's standard, he
18 lied to me about whether or not Choate Hall was at the
19 deposition of that person that Mr. McGuire defended, lied on
20 his version of what constitutes lying, which is not my
21 version of what constitutes lying. I think at best he made a
22 mistake there, but I understand apparently Mr. Joffe is, at
23 least today, arguing for a different standard.

24 There's some potentially material differences
25 between Mr. Ryan, who was that lawyer that I revoked, and

1 this case. I'm not saying that it's off the table. I'm not
2 saying anything is off the table, but if you want that or
3 anything else, you need to ask for it in a motion. -- and
4 I'm not -- I'm open to the supervision and I'm confident that
5 what I saw on the video would not occur for very long in
6 front of Judge Swartwood and threats of criminal --

7 I would also tell you, Mr. Joffe, do you practice
8 criminal law?

9 MR. JOFFE: I practice white collar defense, Your
10 Honor.

11 THE COURT: I think you should brush up on your
12 Fifth Amendment law, would be my suggestion. I don't think
13 your explication of the Fifth Amendment to Mr. O'Grady was an
14 accurate statement of the law.

15 MR. JOFFE: Well, Your Honor, if I may. If I may.

16 THE COURT: No, not at the moment, because I don't
17 think it's material. I'm just pointing that out. That is
18 not -- what the Fifth Amendment is is not material -- how the
19 Fifth Amendment would apply to Mr. O'Grady is not a material
20 issue for today, or for the resolution of any response, but I
21 simply point out to you that I don't believe that your
22 assertion that if he testified at this civil deposition, he
23 would have waived his Fifth Amendment right with respect to
24 future criminal proceeding is accurate, but in any event.

25 So if you want something else, Mr. Bunis, you need

1 to ask for it in a motion.

2 With respect to the supervision of the deposition,
3 if you -- either of you object either, (a), to supervision,
4 (b), having Judge Swartwood opposed as to anybody else being
5 the supervisor, or (c), having the plaintiffs pay for it,
6 then you should -- you don't have to tell me right now. You
7 get a chance to think about it. But you need to tell me, and
8 I was thinking rather quickly, but, you know, I was thinking
9 about some time next week, but we could talk about that. And
10 if your view is -- my sense is that plaintiffs want that, but
11 they don't -- but they might not want to pay for it.

12 MR. JOFFE: I didn't say that, Your Honor.

13 THE COURT: You said -- you're not agreeing to pay
14 for it right now?

15 MR. JOFFE: I didn't say they don't. They don't
16 know about it.

17 THE COURT: Yes. They might not want to pay for it
18 and they might. They haven't agreed.

19 MR. JOFFE: I think they wouldn't want to pay for
20 it. My strong assumption is they would.

21 THE COURT: You can tell me, Mr. Bunis, if you want
22 that, even under those terms, or you want something else in
23 addition, or separate. And I'm open --

24 MR. JOFFE: One thought -- sorry, Michael. Go
25 ahead.

1 MR. BUNIS: One thought I had, judge, and again,
2 this is happening in realtime, but I'm -- one consideration
3 is the relationship between all of these various different
4 things and, in particular, you know, if we are inclined to
5 move for revocation of the pro hac, that -- and Your Honor
6 grants that, that will necessarily -- or may, I should say,
7 impact who takes the depositions that are remaining. And if
8 the person who takes the depositions is a different person,
9 then the need for supervision might not be necessary.

10 THE COURT: Sure.

11 MR. BUNIS: I think it's possible that we could
12 make the decision about the motion for revocation of pro hac
13 quickly, and I think it's also possible that we could
14 assemble the materials to get in front of you to do that,
15 quickly.

16 THE COURT: Let me ask you this question. Do you
17 want the depositions delayed until the resolution of whatever
18 motion you make and whatever Mr. Joffe finds out about paying
19 for it?

20 MR. BUNIS: Yeah. I mean, again, it's the client's
21 call, but my inclination -- I don't want to -- the clients
22 are on the line now, Judge, and they'll probably fire me if I
23 don't make some call that they need to weigh in on, but my
24 inclination is yes, but I obviously need to confirm with
25 them.

1 MR. JOFFE: If Your Honor allows me to give a call
2 to my clients, I can confirm that in five minutes, with
3 respect to payment, because I'm sure they will agree to
4 supervision.

5 THE COURT: You don't want to know how much Judge
6 Swartwood charges?

7 MR. JOFFE: I just want to tell them that we're
8 going to pay for -- I want to know his rate, that's what I
9 ask for, and I just want to tell them --

10 THE COURT: I did not ask his rate.

11 MR. JOFFE: Right, but that's important for us, so
12 I want to know the rate. I want to tell my clients, but in
13 theory, I can assure you that, unless it's an exorbitant and
14 unaffordable fees, we will agree to that. As a pro forma, I
15 want to check the rate and tell my client this.

16 THE COURT: Well, what is exorbitant to one person
17 is cheap to somebody else and I don't mean that facetiously,
18 but you know, it just depends. I have no idea.

19 MR. JOFFE: That's okay. We'll figure it out and I
20 will tell them, but that won't take me long. I mean, we
21 100 percent support supervision of my depositions. I mean,
22 we don't need to supervise defendants taking depositions. We
23 have no complaints about that. They don't need to be
24 supervised and I don't think they need their depositions to
25 be supervised, but my remaining defendants, witnesses.

1 THE COURT: If there were supervision, Mr. Bunis,
2 would you want -- do you feel it's only necessary for the
3 ones that plaintiff takes, or all of them?

4 MR. JOFFE: Well, then they should pay for their
5 own depositions. Why should we pay for their depositions,
6 supervision, if we don't --

7 THE COURT: Well, first of all, you just said they
8 don't need to be supervised, so they --

9 MR. JOFFE: Well, they don't need --

10 THE COURT: I'm just asking him what his opinion
11 is, Mr. Joffe.

12 MR. BUNIS: My view, Judge, is that the whole need
13 for supervision is the result of the conduct of the
14 plaintiffs' lawyer.

15 THE COURT: I understand that, but suppose
16 Mr. Joffe were in the case and there were supervision of what
17 the depositions that plaintiff takes, would you also want the
18 depositions that you take supervised, or do you feel that's
19 unnecessary?

20 MR. BUNIS: I think if he's going to participate in
21 the depositions, they should be supervised, because it's his
22 conduct that we're concerned about.

23 THE COURT: Okay. So you feel that there were
24 problems even in the ones you took?

25 MR. BUNIS: I did not take those depositions.

1 Counsel --

2 THE COURT: I mean, you, the defendants.

3 MR. BUNIS: Yeah, I would defer to Mr. Saso and I
4 think he would tell you yes, but he's on the line.

5 MR. SASO: Your Honor, yes, I think that if we were
6 considering supervised depositions, I think that we have had
7 problems. Again, I -- just like Mr. Bunis, don't want to
8 point fingers, but there have --

9 THE COURT: You would want them all supervised.

10 MR. SASO: But there would be a marked difference
11 that we've experienced between those that have been defended
12 by Mr. Joffe and by other counsel, so I think that it would
13 depend upon the plaintiffs' counsel who would be defending
14 those depositions as to whether or not supervision would be
15 necessary.

16 MR. JOFFE: And Your Honor, I don't mind
17 supervision of whatever I defend. I didn't defend many
18 depositions. Josh McGuire and Mr. Lester Reardon, if you
19 remember the first local counsel.

20 THE COURT: I remember Mr. Reardon.

21 MR. JOFFE: They were mostly defending. I think I
22 defended two, yeah, and that's it. So I don't mind having
23 all supervisions -- all depositions supervised. I just think
24 that, in all fairness, when I take deposition and have
25 supervisor, we should pay for it, but when defendants take

1 deposition, maybe for that time, maybe they can afford to
2 pay.

3 THE COURT: So we're clear, the reason I'm thinking
4 about ordering supervision, Mr. Joffe, is because of you.

5 MR. JOFFE: Right.

6 THE COURT: So if I ordered supervision, whatever
7 supervision I ordered, I would order that it seems to me that
8 I would be inclined to think the plaintiffs should pay for
9 it, or you should pay for it, because it was because of you.
10 The default is the depositions proceed without supervision
11 that lawyers are able to manage the depositions themselves.
12 Having watched the video and -- standing alone and in context
13 with this case, it came to my mind that supervision is
14 required. If supervision is required, then I would --
15 whatever level of supervision, whether it's just the ones
16 you're involved in or all of them, then I would -- my
17 tentative view is the plaintiffs or you would have to pay for
18 it.

19 And the question of fairness that you raise is --
20 if you all came to me at the beginning of the case and said,
21 Judge, we just think it would be a good idea to have somebody
22 supervise, I'd be like, well, that's fine. You can have
23 someone supervise it and you guys can split the cost and
24 figure it out yourselves. That would be much the way you
25 would figure out who's going to take the court reporting.

1 But this is court ordered, if it is, and we turn out to do
2 that, so that's why I would be inclined. But you can address
3 it.

4 So it seems that you need a little bit of time,
5 each, to talk to your clients.

6 MR. BUNIS: Your Honor, I just heard from the
7 client through the magic of -- I've just heard from the
8 client, they've given me -- if Your Honor will order it, we
9 will move for the revocation of the pro hac of Mr. Joffe, and
10 we would agree to putting off the continued depositions until
11 that's resolved.

12 THE COURT: Okay. So that's what you want to do?

13 MR. BUNIS: That's right.

14 THE COURT: All right. And realistically when --

15 And from you, Mr. Joffe, you need, it sounds like,
16 a day to figure out Mr. -- Judge Swartwood's rate and talk to
17 your clients?

18 MR. JOFFE: Yes, Your Honor, but it's really more
19 like a pro forma. I cannot commit without talking to them
20 about it.

21 THE COURT: Right. I understand.

22 MR. JOFFE: But I'm sure, I can give you my strong
23 assurances that they will agree to that.

24 So because it involves an expense, I make sure that
25 I will check with them first.

1 THE COURT: Right. The prudent thing to do would
2 be to --

3 MR. JOFFE: I will advise them to strongly agree to
4 that. And I have all reasons to believe that they will
5 follow my advice.

6 THE COURT: So my suggestion, then, is this: By
7 close of business tomorrow, Mr. Joffe, you file something
8 that simply says you either -- the plaintiffs agree to
9 supervision, agree to supervision by Judge Swartwood and
10 agree to pay for it, or they don't. And if they don't, you
11 just tell me they don't, and then my thought would be you
12 could have a week -- but you tell me if that's reasonable --
13 to tell me, if you don't agree, you know, which party you
14 don't agree and why. And if you do agree, I don't need
15 anymore from you. Okay?

16 MR. JOFFE: Yeah.

17 THE COURT: And if for some reason you're having
18 trouble getting in touch with your clients and you need
19 another day --

20 MR. JOFFE: No, that's -- no. I will get in touch
21 with them right away.

22 THE COURT: Okay.

23 And then, Mr. Bunis, you want to file a motion
24 seeking revocation of pro hac vice. Realistically, about how
25 long to do that?

1 MR. BUNIS: I think we could do it in a week,
2 Judge.

3 THE COURT: Okay. So you'll file a motion for pro
4 hac vice, whatever -- whatever you want, whether it's pro hac
5 vice or anything else by next Friday. And then, Mr. Joffe,
6 probably -- I would ordinarily want to resolve that in
7 less -- would hope you could respond in less than two weeks,
8 but I think I'm inclined to give you the two weeks, because
9 Thanksgiving would be the week -- you get it next Thursday or
10 Friday, and the following week is Thanksgiving.

11 MR. JOFFE: Okay.

12 THE COURT: I don't really want to make -- it just
13 seems a little unfair to make it due on Friday, the day after
14 Thanksgiving.

15 If they -- are you going to get it in next Thursday
16 or next Friday, Mr. Bunis?

17 MR. BUNIS: I think we -- I think we -- we'd like
18 the Friday, Judge.

19 THE COURT: Right. Okay. So just thinking about
20 this, Mr. Joffe, would you be able -- would you want the two
21 weeks, or do you think you could respond by a week and a
22 half, the Wednesday after Thanksgiving.

23 MR. JOFFE: I can respond after -- a week after
24 they file.

25 THE COURT: One week?

1 MR. JOFFE: Yes.

2 THE COURT: That will be the Friday, the day after
3 Thanksgiving.

4 MR. JOFFE: Well -- well, that's okay. I want this
5 to move forward and we're now breaking for like two, three
6 weeks, and there's four depositions.

7 THE COURT: All right.

8 So you file that motion by next Friday, Mr. Bunis.

9 The following Friday, the day after Thanksgiving,
10 Mr. Joffe, you will respond -- you file your opposition.

11 If you wish to file a reply, Mr. Bunis, you can,
12 without filing a motion, by Tuesday or Wednesday, Mr. Bunis?

13 MR. BUNIS: Wednesday, Judge.

14 THE COURT: Wednesday. Okay. All right. I think
15 that -- and in your motion, in addition to addressing
16 whatever you want in your motion, you should address either
17 whether you want -- what your view is -- sort of your -- to
18 the extent you have a -- I understand if your position would
19 be -- if Mr. Joffe is gone from the case, your view is you
20 don't think supervision is necessary. But if there's
21 anything else you wish to say about the supervision issue,
22 you could say it in there and that would give Mr. Joffe the
23 chance to respond to it when he responds.

24 MR. JOFFE: Your Honor, and maybe I just comment on
25 this last. I think the plaintiffs' position would be that

1 whether I am in the case or not in the case, they would like
2 to have supervision.

3 THE COURT: Okay. You can clarify that in the
4 filing tomorrow. You'll tell me about that. So it's just
5 all I need to know -- it sounds like, from what you say, what
6 you anticipate saying is that the plaintiffs agree to
7 supervision and they agree to pay for it, and they agree to
8 Judge Swartwood, there isn't -- it isn't like somebody knows
9 Judge Swartwood or anything like that.

10 MR. JOFFE: Regardless of who takes them from
11 plaintiffs' side.

12 THE COURT: Regardless of who takes them.

13 MR. JOFFE: Yes.

14 THE COURT: Okay. Fine.

15 And then you can respond to that, Mr. Bunis, in the
16 filing next Friday, to the extent you wish.

17 I think in the meantime the -- other than
18 Mr. Patterson, I think you should wait on depositions. And
19 if -- as to Mr. Patterson, I guess the question is do you
20 want to wait on it, or that's the one you're in the middle
21 of.

22 MR. JOFFE: If you're asking me, Your Honor, I
23 would love to wait.

24 THE COURT: I'm asking both of you.

25 MR. JOFFE: Oh, okay. I would love to suspend it

1 until we have, well, either supervision or --

2 THE COURT: Until we resolve these issues.

3 MR. JOFFE: Yes, I don't want to continue with him,
4 if we could have a chance to do that supervised.

5 THE COURT: Do you agree with that, Mr. Bunis?

6 MR. BUNIS: Yes. Yes, Your Honor, we agree.

7 THE COURT: Okay. Okay. Fine. So the depositions
8 are on hold, pending the resolution of this issue. You get
9 the filing tomorrow and next Friday.

10 MR. JOFFE: Yes.

11 THE COURT: Now, there was one other -- oh, I
12 have --

13 Is there anything else you wish to bring up,
14 Mr. Joffe?

15 MR. JOFFE: Yes, Your Honor. I think we have the
16 hearing yesterday, or maybe I'm just -- the day before, and
17 we established a lot -- lots of deadlines for this continuing
18 deposition process and beyond. So do we push those deadlines
19 until after the resolution? Because they don't make sense to
20 follow if we're suspending.

21 THE COURT: I think what I'd like -- if I remember
22 right, the deadlines we set was one deadline of filing by
23 next Friday of the depositions that remain to be done.

24 MR. JOFFE: You know, frankly, I don't remember.

25 THE COURT: Maria, do you have a list right there?

1 MR. JOFFE: I have it somewhere.

2 THE COURT: I think Maria has it.

3 MR. JOFFE: I think we have several deadlines.

4 THE DEPUTY CLERK: Hold on. I'm just looking at my
5 notes. I just haven't done the notes yet.

6 MR. JOFFE: We have status report by Tuesday. I
7 have my actual letter submission, I think, within two weeks.

8 THE COURT: Your letter submission about what?

9 THE DEPUTY CLERK: By next Tuesday, Mr. Joffe, is
10 to submit, as to the service of --

11 THE COURT: Oh, so you need to respond about
12 Mr. Pekar by Tuesday, because we still need to resolve that.

13 MR. JOFFE: Yeah, I will --

14 THE COURT: So that remains, the deadline of
15 Mr. Pekar.

16 What's the next one, Maria?

17 THE DEPUTY CLERK: And they were supposed to work
18 out the schedule by next Friday as to all the depositions and
19 whether or not they were authorized.

20 THE COURT: So all you need to do for that is just,
21 by next Friday, give me the list -- just file a list of who's
22 left to do and that will be helpful to know. You sort of
23 reported it today, but who's left and like are they one day,
24 two days, whatever they are.

25 And what else?

1 THE DEPUTY CLERK: And then they have to file a
2 joint status report as to what's agreed on regarding each of
3 the five by January 11th.

4 MR. JOFFE: There is also December 23rd date, I
5 see.

6 THE DEPUTY CLERK: December 23rd, notify them, each
7 of them, as to whom they plan to examine and --

8 THE COURT: So for now, those deadlines stand, the
9 December 23rd and January deadlines, because those relate to
10 the examinations of the five.

11 MR. JOFFE: Okay.

12 THE COURT: And if they need to be adjusted after
13 the depositions, we can adjust them at a later time.

14 MR. JOFFE: Okay. Your Honor, so just to be clear,
15 how we proceed with this -- we don't do anything about
16 supervision. So you don't except me, then, to go back to you
17 with my response until --

18 THE COURT: I expect you tomorrow to tell me -- it
19 could be a one-page filing -- that, like, your clients do or
20 do not agree --

21 MR. JOFFE: Okay. I understand. Confirmation from
22 clients. Okay. Tomorrow.

23 THE COURT: Right.

24 MR. JOFFE: Yup.

25 THE COURT: I think that the question you raised,

1 Mr. Joffe, about directions not to answer questions in the
2 Barclay deposition, we should resolve, first, these issues.
3 Or do you want to raise those issues? You could raise them
4 now. You could file a motion by next Friday.

5 MR. JOFFE: Well, I would rather do it by motion,
6 Your Honor.

7 THE COURT: Yes, that's what I mean, by motion.

8 MR. JOFFE: I need to quote portions of
9 transcripts, so of course I want to file a motion. It's
10 just --

11 THE COURT: Yes, that's what I'm saying. So how
12 about by next Friday?

13 MR. JOFFE: -- for next Friday? Yes. That will
14 do.

15 THE COURT: And your motion is essentially what
16 you're saying is that there were directions not to answer
17 questions that you think the witness should have answered.

18 MR. JOFFE: Absolutely, Your Honor. And next
19 Friday will be, then, the 20th? So Friday, the 20th.

20 THE COURT: Yes.

21 THE DEPUTY CLERK: I'm sorry, Judge, what is he
22 filing by the 20th?

23 MR. JOFFE: I'm filing a motion to overturn
24 Mr. Bunis's instructions to the witness not to answer my
25 questions.

1 THE DEPUTY CLERK: Thank you.

2 MR. JOFFE: And if that motion succeeds, then as a
3 remedy, I will ask additional deposition time of those
4 witnesses who have been so improperly instructed.

5 THE COURT: All right. I think two weeks for that,
6 Mr. Bunis?

7 MR. BUNIS: I do, too.

8 THE COURT: Okay. Anything else from you,
9 Mr. Joffe?

10 MR. JOFFE: No, Your Honor. No. I think
11 everything is understood. Next Tuesday I'm telling you about
12 Pekar. And Your Honor, I contacted -- well, I attempted to
13 contact him after our hearing on Tuesday. I told him your
14 instructions. I need to tell him whether I accept subpoena
15 on his behalf or not. I have not heard back from him. My
16 communication with him was one way, when he calls me. So I
17 will -- I hope he will, you know, reach out and let me know
18 by Tuesday, pretty much.

19 THE COURT: Okay.

20 MR. JOFFE: So -- but other than that, I understand
21 we're suspending Patterson for today and we're pushing all
22 the other depositions.

23 THE COURT: Right.

24 MR. JOFFE: My client is on transit to Macao. They
25 booked the tickets, booked the hotel, and they're there for

1 depositions. They will be there on Friday, tomorrow. And
2 they will stay there for a few days, until their medical --
3 they have like five days before they should leave. So
4 perhaps for them, Your Honor, and just because of expense,
5 perhaps their depositions could be taken while they're there,
6 because it's just -- the tickets are nonrefundable, the hotel
7 booking is nonrefundable. They are actually on the way there
8 already.

9 THE COURT: I want to think about that after I see
10 your filing tomorrow, but I remind you that they brought the
11 case.

12 MR. JOFFE: I know and they're there for
13 depositions. I'm just saying that they could be deposed.
14 I'm not going to defend them. Okay? Mr. Reardon will defend
15 them, so the other side should have no objections to taking
16 their depositions. They're there. They spent money, you
17 know, they --

18 THE COURT: So Mr. Bunis, after you see the filing
19 from Mr. Joffe tomorrow, if it is Mr. Reardon, you can let me
20 know and just either you want those to go forward on a time
21 agreed upon between you, Mr. Reardon, while they're in Macao,
22 or you wish them to be suspended for resolution of all these
23 issues.

24 MR. BUNIS: Thank you.

25 MR. JOFFE: And Your Honor, we proposed the dates

1 for November 13th and we proposed --

2 THE COURT: Well, it's not going to be November
3 13th, because I haven't got the notice yet from you about the
4 supervision, but you can both let me know that tomorrow,
5 probably. And then I can respond to it pretty quickly and
6 then you can figure that out while they're still in Macao, if
7 they go forward.

8 All right. Is there anything else from you,
9 Mr. Bunis?

10 MR. BUNIS: No, sir.

11 THE COURT: I have one other question for you,
12 Mr. Joffe.

13 MR. JOFFE: Yes, Your Honor?

14 THE COURT: I told me -- you told me the calvary,
15 whoever that is, is coming.

16 MR. JOFFE: Yes, Your Honor.

17 THE COURT: Are they coming, and if so --

18 MR. JOFFE: Yes, Your Honor. They're coming down
19 the hills as we speak.

20 THE COURT: I see, and who is it who's coming? If
21 you can say, or when are they -- I guess my question is, this
22 calvary, will they be filing notices of appearance in the
23 case?

24 MR. JOFFE: Absolutely, Your Honor.

25 THE COURT: And when do you anticipate that will

1 occur?

2 MR. JOFFE: Any day now.

3 THE COURT: Because I think you filed something in
4 August --

5 MR. JOFFE: Yes, I brought it up at the end of
6 August. It took a long process to accomplish and when you
7 see the calvary, you'll understand why, but they're almost
8 there. I'm just holding the fort.

9 THE COURT: I see. Okay. All right. Well, thank
10 you all very much. I'll wait for the filings. You have a
11 good day.

12 MR. JOFFE: And I would be happy to reveal the
13 names, I'm just not at liberty yet.

14 THE COURT: Are they going to be appearing before
15 the end of the year?

16 MR. JOFFE: They will be appearing, I understand, a
17 week or two maximum.

18 THE COURT: Okay. Thank you very much. Have a
19 good day.

20 THE DEPUTY CLERK: This matter is adjourned.

21 (Court in recess at 4:56 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Rachel M. Lopez, Certified Realtime Reporter, in and for the United States District Court for the District of Massachusetts, do hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing pages are a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 17th day of November, 2020.

/s/ RACHEL M. LOPEZ

Rachel M. Lopez, CRR
Official Court Reporter